

EDWARD H. KUBO, JR. #2499
United States Attorney
District of Hawaii

FLORENCE T. NAKAKUNI #2286
Chief, Drug/Organized Crime Section

LOUIS A. BRACCO
Assistant U.S. Attorneys
Room 6-100, PJKK Federal Building
300 Ala Moana Boulevard
Honolulu, Hawaii 96850
Telephone: (808) 541-2850
Facsimile: (808) 541-2958
E-Mail: Lou.Bracco@usdoj.gov

Attorneys for Plaintiff
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

JORGE SALAZAR-GUILLEN,)	CV. NO. 07-00035 HG/LEK
)	(CR. NO. 00-00187-01 HG)
Petitioner,)	
)	GOVERNMENT'S REPLY TO
vs.)	DEFENDANT SALAZAR'S
)	MOTION FOR TRANSCRIPTS;
UNITED STATES OF AMERICA,)	CERTIFICATE OF SERVICE
)	
Respondent.)	
)	
)	

GOVERNMENT'S REPLY TO
DEFENDANT SALAZAR'S MOTION FOR TRANSCRIPTS

A. INTRODUCTION

This pleading responds to Defendant JORGE SALAZAR-GUILLEN's ("Salazar") Pro Se Motion filed February 6, 2007, for "Trial" (sic) Transcripts. Defendant Salazar moves the Court for an order directing the court reporter to provide him with such transcripts in conjunction with a now pending pro se

28 U.S.C. § 2255 petition, also filed in the above-captioned matter. The Government filed its Reply to Salazar's § 2255 petition on February 6, 2007.

B. DISCUSSION

Defendant apparently seeks to obtain the "trial" (sic) transcripts¹ to litigate/supplement his § 2255 claims. However, as we have argued in our reply to his pending § 2255 petition, Defendant's claims are time barred by the 1-year limitations provision in 28 U.S.C. § 2255.

Accordingly, should this Court agree with our position, and dismiss Defendant Salazar's § 2255 petition as untimely, his companion request for the production of transcripts will be moot.

C. CONCLUSION

Wherefore, we request that Defendant Salazar's Motion for Transcripts be deferred until the Court rules on the timeliness of his § 2255 petition. In the event the Court dismisses the pending § 2255 petition as untimely as we have

¹ We note that no "trial" transcripts exist, because Salazar entered a guilty plea and did not proceed to trial. Presumably, Salazar is seeking transcripts of his guilty plea and sentencing proceedings.

We also note that, by reason of Defendant's direct appeal (resolved December 27, 2002), such transcripts have likely already been filed during the litigation of Defendant's direct appeal. Defendant offers no explanation as to why he failed to request transcripts in 2002, or at any time prior to October 24, 2006, when Defendant filed his first motion seeking transcripts (docket entry 636). Defendant's October 2006 motion for transcripts was denied by the Court's Order filed December 26, 2006 (docket entry 641).

recommended, Defendant Salazar's companion Motion for Transcripts should be denied as moot.

DATED: February 9, 2007, at Honolulu, Hawaii.

Respectfully submitted,

EDWARD H. KUBO, JR.
United States Attorney
District of Hawaii

By /s/ Louis A. Bracco
LOUIS A. BRACCO
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I hereby certify that, on the dates and by the methods of service noted below, a true and correct copy of the foregoing was served on the following at their last known addresses:

Served by First Class Mail:

JORGE SALAZAR-GUILLEN
Register No. 87626-022
FCI Beaumont Low-Unit SB
Federal Correctional Institution
P.O. Box 26020
Beaumont, TX 77720-6020

February 9, 2007

Defendant Pro Se

DATED: February 9, 2007, at Honolulu, Hawaii.

/s/ Shelli Ann H. Mizukami